

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

US PETROCHEMICALS INC.,	§	
	§	C.A. H-13-cv-3648
Plaintiff,	§	
	§	
	§	
v.	§	
	§	
CLARKSON SHIPPING	§	
SERVICES, USA, LLC,	§	
H. CLARKSON & CO. LTD.,	§	
	§	
Defendants.	§	
	§	
	§	

ANSWER TO COMPLAINT

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION:

NOW COMES H. CLARKSON & CO. LTD. (incorrectly named here as “H. CLARKSON CO. LTD.”) (hereinafter “H. Clarkson” or “Defendant”), by and through its undersigned counsel, and respectfully submits this Answer to Plaintiff US PETROCHEMICALS, INC.’s Original Petition (“Petition”), originally filed on August 15, 2013 in the District Court of Harris County, Texas (the “State Court”) and removed to this Court.

ANSWER

Defendant answers the specific allegations contained in Plaintiff's Petition as follows:

- 1) Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first subparagraph of Paragraph I of the Petition.
- 2) Defendant admits the allegations contained in the second subparagraph of Paragraph I of the Petition.
- 3) As to the allegations contained in the third subparagraph of Paragraph I of the Petition, Defendant admits that it is a foreign business entity that does not maintain a place of business or designated agent for service of process in the state of Texas. The remaining allegations contained in the third subparagraph of Paragraph I of the Petition are legal conclusions for Plaintiff to credibly prove and the Court to determine. To the extent a response is required, Defendant denies the remaining allegations contained in the third subparagraph of Paragraph I of the Petition.
- 4) The fourth subparagraph of Paragraph I of the Petition does not state allegations of fact for which an answer is required.
- 5) The fifth subparagraph of Paragraph I of the Petition is a recitation of purported jurisdiction for Plaintiff to credibly prove and the Court to determine.

To the extent a response is required, Defendant denies the allegations contained in the fifth subparagraph of Paragraph I of the Petition.

6) The sixth subparagraph of Paragraph I of the Petition does not state allegations of fact for which an answer is required.

7) Paragraph II of the Petition does not state allegations of fact for which an answer is required. To the extent a response is required, Defendant states that its correct legal name is H. CLARKSON & CO. LTD.

8) Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first subparagraph of Paragraph III of the Petition.

9) Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second subparagraph of Paragraph III of the Petition, except admits that Plaintiff turned to Defendant H. Clarkson to arrange with the shipment of Propane and Butane on its behalf. Denies that Defendant Clarkson Shipping Services, USA, LLC had any involvement with the shipment of Propane and Butane on behalf of Plaintiff.

10) Defendant denies the allegations contained in the third subparagraph of Paragraph III of the Petition, except admits that the quoted language may be found on Defendant's website.

11) As to the allegations contained in the fourth subparagraph of Paragraph III of the Petition, Defendant

- a.** admits that Defendant H. Clarkson advised Plaintiff on market availability and rates for two (2) ships, Gaschem Pacific and SYMI;
- b.** admits that Plaintiff entered into a charter party agreement with the owner of the Gaschem Pacific to load and transport the product; and
- c.** denies the remainder of the allegations set forth in the fourth subparagraph of Paragraph III of the Petition.

12) As to the allegations contained in the fifth subparagraph of Paragraph III of the Petition, Defendant

- a.** denies the allegations contained in the first sentence;
- b.** denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence; and
- c.** denies the remainder of the allegations set forth in the fifth subparagraph of Paragraph III of the Petition.

13) Defendant denies the allegations contained in the sixth subparagraph of Paragraph III of the Petition.

14) Defendant denies the allegations contained in the first subparagraph of Paragraph IV of the Petition.

15) Defendant denies the allegations contained in the second subparagraph of Paragraph IV of the Petition.

16) Defendant denies the allegations contained in Paragraph V of the Petition.

17) Defendant denies the allegations contained in Paragraph VI of the Petition.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failing to state a claim upon which relief can be granted.

SECOND DEFENSE

The damages allegedly sustained by Plaintiff were proximately caused, if at all, by Plaintiff's own fault or negligence.

THIRD DEFENSE

Plaintiff failed to adequately and reasonably mitigate its damages.

FOURTH DEFENSE

Plaintiff's claim for negligence is barred under the economic loss rule.

FIFTH DEFENSE

Plaintiff's complaint should be dismissed for failure to join an indispensable party/parties.

SIXTH DEFENSE

This Answer is made without waiver of any jurisdictional defenses that may exist between the parties.

WHEREFORE, Defendant H. CLARKSON & CO. LTD. prays that Plaintiff's First Original Petition be dismissed with costs, and that said Defendant be granted such other and further relief as to the Court seems just and equitable.

Respectfully submitted,

Dated: December 20, 2013
Houston, Texas

CHALOS & Co, P.C.

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**ATTORNEYS FOR
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CO., LTD.**

CERTIFICATE OF SERVICE

I hereby certify that on this the 20th day of December, 2013 a true and correct copy of the foregoing was delivered via the Court's CM/ECF system to counsel of record:

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By: /s/ George M.Chalos
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